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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

WALTER SPURLOCK and ANDRE  
GUIBERT,

Plaintiffs,

v.

CITY AND COUNTY OF SAN  
FRANCISCO, AIRPORT COMMISSION OF  
THE CITY AND COUNTY OF SAN  
FRANCISCO, KEABOKA MOLWANE in his  
individual capacity and official capacity as  
Aviation Security and Regulatory Compliance  
Officer at the San Francisco International  
Airport, and JEFF LITTLEFIELD in his  
individual capacity and official capacity as  
Chief Operating Officer at San Francisco  
International Airport,

Defendants.

Case No. 3:23-cv-4429

**DEFENDANTS' ADMINISTRATIVE MOTION  
TO FILE UNDER SEAL**

Hearing Date: May 23, 2024  
Time: 2:00 p.m.  
Before: Hon. Araceli Martínez-Olguín  
Place: 450 Golden Gate Avenue  
Courtroom 10  
San Francisco, CA 94102

Date Action Filed: August 28, 2023

## ADMINISTRATIVE MOTION TO SEAL DOCUMENT

Pursuant to Civil Local Rules 79-5 and 7-11, Defendants the City and County of San Francisco, the Airport Commission of the City and County of San Francisco, Jeff Littlefield, and Keaboka Molwane (collectively, “San Francisco” or “Defendants”) move to file under seal portions of Defendants’ Reply in Support of Motion to Dismiss the Second Amended Complaint (“Reply”) that refer to redacted parts of Plaintiffs’ Second Amended Complaint (“SAC”) and a redacted exhibit attached thereto. Plaintiffs filed their SAC partially under seal because it refers to a federal guidance document issued by the Transportation Security Administration (“TSA”), TSA-NA-21-01A (the “TSA Guidance”), that is “sensitive security information” (“SSI”) not subject to public disclosure under federal regulations. 49 C.F.R. § 1520.5(a), (b)(1), and (b)(2).<sup>1</sup> Plaintiffs also attached the TSA Guidance as Exhibit G to Plaintiffs’ SAC. Dkt. No. 43-7 [redacted version]; Dkt. No. 44-5 [unredacted version filed under seal].

To avoid unsealing what Plaintiffs have sealed, and because the contents of the TSA Guidance are SSI that the parties must protect from public disclosure, San Francisco will file its Reply conditionally under seal pending the Court’s ruling on this administrative motion. San Francisco also followed this procedure to file its Motion to Dismiss the SAC conditionally under seal.

Local Rule 79-5 authorizes a document to be filed under seal when it is established that the document contains information that is privileged or otherwise entitled to protection under the law. In the Ninth Circuit, a “‘compelling reasons’ standard applies to [sealing] most judicial records.” *Pintos v. Pac. Creditors Ass’n*, 605 F.3d 665, 677-78 (9th Cir. 2010); *see also Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179-80 (9th Cir. 2006). Here, this standard is met by binding federal regulations preventing the public disclosure of the contents of the TSA Guidance because it is SSI. 49 C.F.R. § 1520.5(a), (b)(1), and (b)(2); *see also* 49 C.F.R. § 1520.15(a).

Local Rule 79-5 requires a party seeking to file material under seal to explain: (i) the legitimate private or public interests that warrant sealing; (ii) the injury that will result if sealing is denied; and

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<sup>1</sup> The TSA Guidance was previously shared with the Court as an exhibit filed under seal in support of Defendants’ Request for Judicial Notice in Support of Motion to Dismiss the First Amended Complaint. *See* Dkt. No. 38; Dkt. No. 38-4.

(iii) why a less restrictive alternative to sealing is not sufficient. The first factor is satisfied because the federal government has determined that public disclosure of the contents of the TSA Guidance would constitute an unwarranted invasion of privacy, reveal trade secrets or privileged or confidential information obtained from any person, or be detrimental to the security of transportation. 49 C.F.R. § 1520.5(a). Hence, there are legitimate public interests that warrant sealing, as codified by 49 C.F.R. § 1520.5. On the second factor, multiple injuries would result if sealing is denied. Such action would be detrimental to the security of transportation, would reveal trade secrets or other privileged or confidential information, or would constitute unwarranted invasion of privacy. Additionally, San Francisco could potentially be subject to penalties for the unauthorized disclosure of SSI. *See* 49 C.F.R. § 1520.17; Declaration of Molly J. Alarcon ISO Administrative Motion to Seal at ¶ 4. As to the third factor, San Francisco has chosen a less restrictive alternative than sealing its entire Reply, and has only redacted references to what Plaintiff redacted as confidential or SSI. *See* Declaration of Molly J. Alarcon ISO Administrative Motion to Seal at ¶ 5.

For the reasons stated herein, San Francisco respectfully requests that San Francisco be permitted to file an unredacted version of its Reply under seal, along with a redacted public version.

Dated: March 29, 2024

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